

Jan 14, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ROBERT LARAMIE GOMES,

Plaintiff,

v.

YAKIMA COUNTY JAIL, YCDOC,
LEGAL RECORDS DIVISION and
MENTAL HEALTH DEPARTMENT,

Defendants.

No. 1:19-cv-03076-SMJ

**ORDER DENYING MOTION FOR
RECONSIDERATION, MOTION
TO STAY, MOTION FOR
EXTENSION OF TIME, AND
SECOND MOTION TO STAY**

By Order filed October 10, 2019, the Court dismissed this action with prejudice for failure to state a claim upon which relief may be granted, ECF No. 15, and judgment was entered, ECF No. 16. The Court also found Plaintiff had failed to comply with the Court's directive to amend or voluntarily dismiss and failed to keep the Court apprised of his current address. *See* ECF No. 16 at 1–2.

On October 23, 2019, Plaintiff filed what was construed as a Motion for Reconsideration, ECF No. 18. He subsequently filed two construed Motions to Stay, ECF Nos. 19 and 21, and a construed Motion for Extension of Time, ECF No. 20. The Court has reviewed the motions and the file in this matter and is fully informed. For the reasons set forth below, the Court denies the Motion for Reconsideration,

1 ECF No. 18. The two Motions for Stay and the construed Motion for Extension of
2 Time, ECF Nos. 19, 20, & 21, are denied as moot.

3 **MOTION FOR RECONSIDERATION**

4 A motion for reconsideration may be reviewed under either Federal Rule of
5 Civil Procedure 59(e) (motion to alter or amend a judgment) or Rule 60(b) (relief
6 from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th
7 Cir. 1993). “A district court may properly reconsider its decision if it ‘(1) is
8 presented with newly discovered evidence, (2) committed clear error or the initial
9 decision was manifestly unjust, or (3) if there is an intervening change in controlling
10 law.’” *Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (quoting
11 *School Dist. No. 1J*, 5 F.3d at 1263). “There may also be other, highly unusual,
12 circumstances warranting reconsideration.” *School Dist. No. 1J*, 5 F.3d at 1263.

13 On July 9, 2019, the Court directed Plaintiff to amend his Complaint or to
14 file a motion for voluntary dismissal, explaining that Plaintiff had failed to state a
15 claim upon which relief could be granted. ECF No. 13. Plaintiff was given sixty
16 days to comply with that order. *Id.* Ninety-three days later, after the Court’s orders
17 were returned as undeliverable and the Court had received no communication from
18 Plaintiff, the Court dismissed the case with prejudice for failure to state a claim
19 upon which relief can be granted. ECF Nos. 14, 15. The Court then received a letter
20

1 dated October 19, 2019, one hundred and two days after Plaintiff was ordered to
2 amend or voluntarily dismiss. *See* ECF No. 17.

3 Plaintiff indicates that he has been returned to the Yakima County Jail and
4 asks the Court to reinstate his case, claiming his mail had been misappropriated by
5 persons from whom he had rented a room. ECF No. 18 at 1. He claims he twice
6 attempted to notify the courts of his change of address. *Id.* On November 18, 2019,
7 Plaintiff submitted a request that his cases be “placed on hold,” as he focused on
8 obtaining his freedom and being reunited with family. ECF No. 19 at 1. Defendant
9 also asserts he is attempting to find an attorney. *Id.* Defendant then sought additional
10 time to comply with directives from the U.S. District Courts and indicated that civil
11 suit forms were not readily available at the jail facility. ECF No. 20 at 1.

12 The Court did not receive any notice of change of address from Plaintiff.
13 Plaintiff has also failed to adequately explain why he was unable to monitor the
14 status of his case or respond to the Court’s July 9, 2019 Order when he was released
15 from custody. More than three months passed between the Court’s July 9, 2019
16 Order Directing Plaintiff to Amend or File a Motion for Voluntary Dismissal and
17 Plaintiff’s October 19, 2019 letter to the Court. Plaintiff does not assert that during
18 this time he made any attempt to check on the status of his case by calling, by
19 coming to the court, or by reviewing the public records available through the Public
20 Access to Court Electronic Records system. Plaintiff is responsible for moving his

1 case forward. Here, he has failed to do so and also failed to adequately explain why
2 he was unable to do so. As such, the Court finds no basis to reconsider its decision
3 to dismiss the complaint and declines to re-instate this action.


4 Accordingly, **IT IS ORDERED:**

5 1. Plaintiff's construed Motion for Reconsideration, **ECF No. 18**, is
6 **DENIED.**

7 2. Plaintiff's Motions seeking a stay or an extension of time, **ECF**
8 **Nos. 19, 20 & 21**, are **DENIED AS MOOT.**

9 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and
10 provide copies to Plaintiff at his last known address. The file shall remain closed.

11 **DATED** this 14th day of January 2020.

12 
13 SALVADOR MENDOZA, JR.
United States District Judge